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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/070,348	02/28/2002	Amanda Sara Hewett	602-1562	7081

7590 12/02/2003

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EXAMINER

GRILES, BETHANY L

ART UNIT	PAPER NUMBER
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3643

DATE MAILED: 12/02/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/070,348

Applicant(s)

HEWETT ET AL.

Examiner

Bethany L. Griles

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 September 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 21-39 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 21-39 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
- a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Response to Arguments

Applicant's arguments with respect to claims 21-39 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 21, 23, 24, 35, and 36 are rejected under 35 U.S.C. 102(b) as being anticipated by Tominaga (US5392733).

Regarding claims 21 and 23, Tominaga discloses an item of cage furniture (col 2, line 35) comprising a material which is transparent to a human observer, but substantially darkend or opaque to an animal (col 4, lines 55-58).

Regarding claim 24, Tominaga discloses that the item is formed of hard plastic (col 4, line 56).

Regarding claim 35, Tominaga discloses a fixing means to restrict movement of the furniture item within the cage in the form of the base (col 2, line 51).

Regarding claim 36, Tominaga discloses at least two entrances (col 1, lines 66-67).

Claims 37-39 (method) are rejected under 35 U.S.C. 102(b) as being anticipated by Tominaga (US5392733).

Regarding claims 37, 38, 39, Tominaga discloses manufacture of an item of cage furniture (col 2, line 35) comprising a material which is transparent to a human observer, but substantially darkend or opaque to an animal (col 4, lines 55-58).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 22 and 25-33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tominaga (US 5392733).

Regarding claim 22, Tominaga discloses that the item is for use with a hamster (col 2, line 52).

Tominaga does not disclose that the animal is a caged rat or mouse.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to extend the use of the piece of furniture to a rat or mouse, as they are all members of the rodent family and share many of the same behavioural and physical characteristics as hamsters.

Regarding claim 25, Tominaga discloses that the item is made from hard plastic (col 1, line 48).

Tominaga does not disclose that the plastic is "resistant to repeated autoclaving".

It would have been obvious to one of ordinary skill in the art at the time the invention was made to make the item of a material which was resistant to repeated

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autoclaving. Also, any material would be "resistant" to autoclaving, just to varying degrees of success.

Regarding claim 26, Tominaga discloses the use of a hard plastic (col 1, line 48).

Tominaga does not specify that the hard plastic is polysulfone, polytherimide, or polycarbonate.

It would have been obvious to one of ordinary skill in the art at the time the invention was made, and an obvious matter of design choice, to select from the group of hard plastics listed according to price and availability at the time of manufacture.

Regarding claim 27, Tominaga discloses an item of cage furniture (col 2, line 35).

Tominaga does not disclose that the item of furniture is made of colored material.

It would have been obvious to one of ordinary skill in the art at the time the invention was made, and it is notoriously well known in the art, to have cage accessories and animal toys in various colors. It would be obvious to make the item more aesthetically pleasing as well as to entertain or soothe the animal.

Regarding claim 28, Tominaga discloses an item of cage furniture (col 2, line 35).

Tominaga does not disclose that the item of furniture is made of red colored material.

It would have been obvious to one of ordinary skill in the art at the time the invention was made, and it is notoriously well known in the art, to have cage accessories and animal toys in various colors. It would be obvious to make the item more aesthetically pleasing as well as to entertain or soothe the animal.

Regarding claims 29-33, Tominaga discloses that the plastic could be of a transparent or translucent material (col 4, lines 55-56).

Tominaga does not disclose the various light transmittal percentages of the material used.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to vary the degree of light transmittal through the material used in manufacture of the item, as it is disclosed that the plastic could range from transparent to translucent.

Claim 34 is rejected under 35 U.S.C. 103(a) as being unpatentable over Tominaga in view of Coiro, SR. et al. (US5894816).

Regarding claim 34, Tominaga discloses a substantially right angled triangular shelter (col 2, line 35), fig 2.

Tominaga does not disclose that the shelter is floorless.

Coiro, Sr. et al. disclose a floorless structure (fig 1).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to apply the teaching of Coiro, Sr. et al. to the invention of Tominaga in order to make the structure more sturdy and an integral part of the cage itself.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Gabriel et al. US6336427 ; Lee US5474025 ; Sakai US6123047; Phillips et al. US5092269; Smith US5797350.

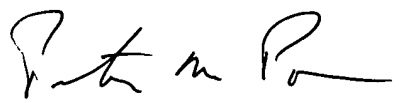
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Bethany L. Griles whose telephone number is 703.305.1839. The examiner can normally be reached on Monday through Friday 8:00 am - 4:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Poon can be reached on 703.308.2574. The fax phone number for the organization where this application or proceeding is assigned is 703.872.9306

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703.306.5771.


blg

Bethany L. Griles
Examiner
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